

HCBS Final Rule Workgroup meeting minutes

HCBS Final Rule Workgroup Meeting		
7.29.2015	10:00am- 12:00pm, 2:30-3:00	St. Francis Hospital, Meeting Room 1
Meeting called	Kansas Department for Aging and Disability Services (KDADS)	
Type of meeting	Workgroup	
Facilitator	Wichita State University- Kevin Bomhoff	
Note taker	Ashley Kurtz	
Attendees	Sandra Andrews, Mike Horan, John Barry, Linda Mowbray, Pam McDiffett, Cori Huxman, Jennifer Pileus, Kimberly Pierson, Greg Wintle, Patty Gerdel, Jody Patterson, Robert Cooper, Laura Leistra, Anthony Fadale, Tara Gregory, Katrina Ostmeier, Mary MacBain, Ashley Kurtz, Kevin Bomhoff, Christine Gafford, Helen Cherry, Kerrie Bacon, Rachel Monger, Ramona Macek, Ryan Gonzalez, Aquila Jordan	

Welcome		
15 minutes	Kevin Bomhoff	
Discussion		
<p>Fifteen minutes were allotted for workgroup members to re-introduce themselves to the other participants in the group. The meeting minutes from the June 29th meeting were finalized as there were no comments or revisions submitted by the Workgroup. The charter was reviewed and additional comments/concerns were submitted by the Workgroup members. The workgroup expressed concerns about the “final recommendation” deadline of August 20th. The charter will be updated to “qualified final recommendation” on the Workgroup charter to reflect that the State expectation is for the group to make recommendations based on the material/information available at the time. The State also clarified that this is the first Workgroup in the HCBS Final Setting Rule process and more work will continue as the State continues to progress.</p>		
Action Items	Person	Deadline
Update Charter to include all selected workgroup member	Ashley Kurtz	August 3, 2015

WSU Report Out

15 minutes	Tara Gregory
Discussion	

Tara Gregory at Wichita State University made a brief presentation on the Kansas HCBS Provider Self-Assessment and Attestation Survey Report, HCBS Approved State Transition Report, and HCBS Site Visit Models.

- Kansas HCSB Provider Self-Assessment and Attestation Survey Report

The self-assessment survey was opened around April for providers to complete a self-assessment survey about the provider-owned HCBS settings. WSU received a lot of responses before the survey was closed on July 16th. Eight hundred twelve (812) providers completed the survey for each provider setting type they owned or operated. The report was similar to the Preliminary Report provided during the June 29th meeting. Tara highlighted the averages of the provider settings on page 3 of the report. The questions and response following page 5 are specific questions about HCBS Final Rule Compliant and page 12 has some (not all) of the attestation statements regarding complete, partial, or non-compliance with HCBS Final Rule.

-Can the information found in Table 2 (on page 4 of the report) be further broke down into the percentage of each IDD provider type that answered the survey?

This could potentially be completed if WSU can get a complete list from KDADS.

- HCBS Approved State Transition Report

The Workgroup asked WSU to find information from other States regarding compliance with the HCBS Final Settings Rule. The Workgroup asked them to focus specifically on assessment tool, on-site review process, and evidence of compliance. WSU reported that they have contacted as many States as they could and compiled this report. WSU was able to get the most complete information from Michigan and North Dakota but will continue to reach out to the other States. This report is a summary of the information complied and WSU has full report if it is needed for the purpose of the Workgroup.

- HCBS Site Visit Model

WSU also provided a report that focuses on the other States process and the tasks that the States have completed to date (Table 2). The report indicated that most States are utilizing self-assessments, on-site evaluations, or both to comply with the HCBS Final Rule.

-Did WSU get information on the parties that are completing the on-site visits?

WSU has not been able to get this information at this time. Aquila Jordan reported that she has been informed that some staff are using current staff or contractors. She also reported that the State should have more detail regarding the group composition of the on-site review team once a report from National Associations becomes available. This report is not anticipated until the beginning of September and will not be available for the group to review.

-How does that work if the information is not available during the established Workgroup timeframe?

KDADS does not have all the final pieces since the State's transition plan has not been approved; however, the timeline for compliance continues and the State must be prepared to meet the 5 year deadline. Therefore, the Workgroup will continue with the original timeline and recommendations must be submitted based on the information available at the time. The recommendations will not be "written in stone" and may be adapted or revised by later Workgroups if new information becomes available.

-Do we need to change the charter?

Additional workgroups will be initiated following the completion of this Workgroup to continue working toward the compliance with the HCBS Final Rule. Therefore, the original timeframe for this Workgroup will not change and the charter will be modified to reflect that the Workgroup must submit a "qualified final recommendation."

Subgroup Meeting Report Out

1 hour 30

Subgroup Facilitators

Discussion

Subgroup 1: Changes required for HCBS settings to meet the Final Rule

This subgroup met on July 14th and reviewed the list (provided by the State) that are presumed compliant, may be compliant with changes, non-compliant (heightened scrutiny), and non-compliant (institution). In order to ensure that all members of the group understood the HCBS Final Setting Rule, the Subgroup reviewed a presentation on the Final Rule. The Subgroup reviewed the settings listed and determined that no setting types were missing or needed added to the list.

Youth in foster care (State Custody) are now required to have agency-directed services instead of self-directed. Does this limit choice? Is it going to conflict with the HCBS Final Rule?

This concept is outside of the charter objectives and does not relate to the task at hand.

The Subgroup also indicates that most of the settings in the category for may be compliant with changes are going to come down to the Plan of Care and the option of choice being provided to the consumer. The POC should indicate how the choice was given, how the consumer arrived at the choice, and whether the consumer understands the potential limitations with the selected choice.

The Subgroup indicated that the State needs to consider that some of the settings are a “last resort” to institutionalization. Restrictions may be placed on the consumer to prevent institutionalization and may need to be reviewed for heightened scrutiny to meet HCBS Final Rule.

The State of Kansas is mostly a rural/frontier State and the State needs to ensure that we do not inadvertently institutionalize individuals due to lack of alternative options available in the area.

-Would every county have to get a CMS Exception or is the exception State-wide?

CMS will grant exceptions based on the setting. Therefore, each setting would have to request and be granted an exception.

-Could other funding streams be explored to avoid an increase in institutionalize if all else fails?

This concept is outside of the current charter objectives and will be explored as future Workgroups explore Transition Plans.

-How long does a consumer need to be in a setting before it is considered their residence?

The setting is considered the residence once the consumer has entered/admitted to the setting.

-If an individual is dually-diagnosed and resides in an HCBS setting, what are the implications for the consumer going to settings that are not HCBS funded for other services (i.e., mental health therapy)? Does the not HCBS funded setting have to meet HCBS Final Rule as well?

The non-HCBS funded setting would be considered a community setting and would not have to meet compliance with the HCBS Final Rule if they are not funded through HCBS funds.

-What is the interpretation of the Final Rule for minor?

For the Final Rule, CMS is looking at whether the setting has institutional-like concerns (such as locked doors, shared rooms, etc.) Regardless of the age of the consumer, CMS wants to ensure that the disabled and elderly population have the same rights as populations without disabilities.

-What is the interpretation for individuals with dementia with potential risks to their safety?

The settings wide restrictions and issues will be looked at rather than person specific concerns. For example, a consumer that has a risk of elopement must have the necessary measures to protect his or her safety (wander band) rather than having an entire unit on lock-down. The subgroup should consider whether this situation might be appropriate for heightened scrutiny.

Subgroup 2: Elements for the design of the assessment tool

The Subgroup met and discussed the design for the HCBS Final Rule assessment tool. The Subgroup discussed the best modality of the assessment and the best method for gathering the necessary information. The Subgroup felt that an on-site assessment would be the best method for collecting the most reliable information. Assessors should use three modes of information included records reviews (policies and procedures, PCSP, etc.), environmental observation, and resident interviews (in the residential settings). The State should be aware of individuals that are not able to community (i.e., Intellectual Disability) and the potential option to interview the guardian and/or staff. The Subgroup has developed a rough draft of the assessment tool and want to differentiate between residential and non-residential settings.

Here are some questions or concerns that the group is focusing on and felt the State should consider:

- Who gets the assessment?
- What portion of the population or waivers will get the assessments?
- How many people in a setting will be assessed?
- How to gear the assessment to the waiver populations?
- How does the group make a flexible and standardized tool?

For the today's Subgroup meeting, the group will focus on compliance concerns (merging with compliance workgroup) and developing an assessment manual to go along with the tool.

Other Questions/Concerns from the rest of the Workgroup?

Will the group develop a second tool for settings that are not in compliance?

Will the assessment be available for electronic use?

Will the tool assess how the providers hire, manage, and supervise the attendant care worker? This is an individual that plays a large role in the choices of the consumer. This concept is outside the objective of the charter and may be more directly addressed in the background check policy. This information will be forwarded to the Workgroup member requesting the information.

Subgroup 3: Process for conducting the onsite assessment

This subgroup met and determined that the assessor for compliance with HCBS Final Rule should be conflict free. The group discussed who could be considered conflict free and some potential suggestions included conflict free case managers, KDADS staff, and volunteers. The group felt that the assessors need some level of experience in the field (i.e., social services) to know what the services are and what the setting should look like. The group felt that the applications for assessor should be reviewed by KDADS and potentially other parties before being selected.

The group felt that all selected assessor should be receive an intense, through training to teach the whole tool. The group indicated that they do not feel that this training can be useful if it is a short training (i.e., half day). The assessors should be trained to understand what they are doing, what they are looking for, and are prepared to administer the assessment tool. The group suggested that the State might want to consider teams of 2-3 people depending on the type of setting being assessment. Too many assessors may be overwhelming in smaller settings and larger settings (day & residential) may require additional people.

-What is the percentage of providers that must be assessed?

100% of all providers must be assessed; however, not all assessments will be on-site reviews (especially for non-residential settings).

-How does it look when you want the element of surprise without it appearing threatening?

In the first phase, the State will look at the self-assessment survey and compare with the list of HCBS providers. Those providers that have not completed the survey will be assessed on-site first. This should not be a surprise since the State announced this to the public when the survey was posted.

Here are some questions or concerns that the group is focusing on and felt the State should consider:

- How would the training look?
- How many people would be accepted as assessors?
- Assessor Qualifications
- How would Kansas be split for assessment areas?
- How do you get a conflict free person with no payment?
- How to integrate with State staff?
- Would the State consider publishing the compliance of the settings?
- How often will the assessments be completed?
- Did the group consider background checks, HIPPA, liability, release of information? How will this process work?
- Consider social work students?

NOTE: Attached are copies of the materials developed and reviewed by the Subgroups. As a reminder, all information provided to this Workgroup should remain within the group at this time. The State will post draft versions of the materials online for public comments once the comments and recommendations of the Workgroup have been reviewed.